

## MEDICARE PRESCRIPTION DRUG COVERAGE - NORTH DAKOTA'S "CLAWBACK"

As a result of Congress approving the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, beginning January 1, 2006, the federal Medicare program will provide prescription drug benefits to individuals eligible for Medicare, including those eligible for both Medicare and Medicaid (dual-eligibles). The Act requires states to make payments to the federal government for a portion of the costs of the prescription drugs for dual-eligible individuals. These payments are called the "clawback."

The required payments to the federal government are made by the state the month after the cost is accrued; therefore, the state's first payment will be made in February 2006. The state payments are calculated at 90 percent of estimated state savings for calendar year 2006, declining to 75 percent by 2015. The payments are based on the number of dual-eligible individuals for a particular month multiplied by the state's per capita prescription drug expenditures. The per capita prescription drug expenditures are determined for each state based on each state's Medicaid expenditures for prescription drugs for dual-eligible individuals in calendar year 2003, increased by the growth in per capita prescription drug spending nationally, and adjusted by the state's federal medical assistance percentage.

The 2005 Legislative Assembly appropriated a total of \$105,081,914 for prescription drug costs in the Medicaid program of the Department of Human Services. This amount was intended to provide for the costs of prescription drugs for individuals eligible for the state's Medicaid program and to make the state's required "clawback" payments to the federal government during the 2005-07 biennium.

The Department of Human Services reported to the Budget Committee on Human Services in October 2005 that it anticipated North Dakota's "clawback" payments to total \$15,851,709 for the 2005-07

biennium based on a per capita amount of \$74.10 and approximately 11,000 dual-eligibles. The federal government informed the department later in October 2005 that it had calculated North Dakota's per capita amount at \$76.43 requiring estimated "clawback" payments of \$16,350,921 for the 2005-07 biennium. The department learned that the increase in the per capita amount was attributable to the federal government using a higher inflation factor than the department had estimated.

The schedule below presents the anticipated use of the \$105.1 million appropriation provided for prescription drug expenditures in the Medicaid program for the 2005-07 biennium based on the department's original per capita estimate of \$74.10.

|   |                      |
|---|----------------------|
| "Clawback" payments (general fund)  | \$15,851,709         |
| Federal funds spending authority relating to the "clawback" payments which will not be used | 27,348,703           |
| Medical assistance prescription drug costs (all funds)                                      | 61,881,502           |
| <b>Total (all funds)</b>  | <b>\$105,081,914</b> |

The schedule below presents the department's anticipated use of the \$105.1 million appropriation provided for prescription drug expenditures in the Medicaid program for the 2005-07 biennium based on the federal government's per capita estimate of \$76.43.

|   |                      |
|---|----------------------|
| "Clawback" payments (general fund)  | \$16,350,921         |
| Federal funds spending authority relating to the "clawback" payments which will not be used | 28,214,140           |
| Medical assistance prescription drug costs (all funds)                                      | 60,516,853           |
| <b>Total (all funds)</b>  | <b>\$105,081,914</b> |